

Customer No. 25280

Case No. 5019

REMARKSAnticipation Rejection:

Claims 17 – 22 and 24 – 32 stand rejected under 35 U.S.C. 102(a) as being anticipated by Yokozeki et al. (US 5,981,063). As regards claim 17, the Office Action takes the position that Yokozeki discloses the instant invention with the exception of "at least one portion of said treated substrate retains at least 30% of said finish after 10 washes as performed in accordance with the wash procedure of AATCC Test Method 130-1981." The Examiner presumes that this limitation is inherent to the invention based on the use of similar materials.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. The identical invention must be shown in as complete detail as is contained in the claim (MPEP § 2131). Applicants respectfully submit that Yokozeki does not satisfy this rigorous standard.

As regards claim 17, Applicants respectfully submit that Yokozeki fails to disclose a treated substrate as claimed "wherein said finish is integrally retained on said at least one portion of said surface of said substrate, after 10 washes as performed in accordance with the wash procedure of AATCC Test Method 130-1981, in an amount of at least 30% of the amount of said finish present on said at least one portion of the surface of said substrate prior to the performance of any wash procedure."

MPEP § 2112 clearly states that the fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. To establish inherency, extrinsic evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Applicants respectfully submit that there is no such evidence of record and therefore the rejection of the instant claims on the basis of inherency is not proper. Accordingly, the anticipation rejection of claim 17, and all claims depending directly or indirectly from claim 17, should not be maintained.

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Conclusion:

For the reasons set forth above, it is respectfully submitted that all claims now stand in condition for allowance.

Should any issues remain after consideration of these Remarks, the Examiner is invited and encouraged to telephone the undersigned in the hope that any such issue may be promptly and satisfactorily resolved.

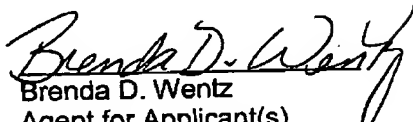
To any extent required for acceptance of this paper, an extension of time is hereby requested.

In the event that there are additional fees associated with the submission of these papers (including extension of time fees), authorization is hereby provided to withdraw such fees from Deposit Account No. 04-0500.

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Legal Department  
Milliken & Company  
920 Milliken Road (M-495)  
P.O. Box 1926  
Spartanburg, SC 29304  
Tel # (864) 503-1597  
Fax # (864) 503-1999

Respectfully submitted,

  
Brenda D. Wentz  
Agent for Applicant(s)  
Registration Number 48,643